

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is entered into by and between the TOWN OF WHITESTOWN, INDIANA, a political subdivision of the State of Indiana (the "Town" or "Lessor"), and the WHITESTOWN REDEVELOPMENT AUTHORITY, a separate body corporate and politic and an instrumentality of the Town (the "Authority" or "Lessee"), as of this ____ day of _____, 2016 (the "Effective Date").

RECITALS

WHEREAS, the Authority has been established by the Town and exists for the purpose of assisting the Whitestown Redevelopment Commission ("Commission") in the financing, construction, development and operating of local public improvements and economic development projects located within the Town, all pursuant to Indiana Code 36-7-14 and 14.5 (collectively, the "Act"); and

WHEREAS, the Lessee intends to finance and construct certain municipal improvements in the Town, including but not limited to the acquisition, construction, and equipping of (i) a fire station which may include fire headquarters, (ii) certain emergency and public safety equipment, vehicles and facilities, (iii) certain economic development projects, and (iv) certain other related and non-related public municipal improvements (the "Project"); and

WHEREAS, the Lessee will finance the Project through the issuance of its Lease Rental Revenue Bonds, Series 2016, in the aggregate principal amount not to exceed \$28,500,000 (the "Bonds"); and

WHEREAS, in connection with the Project and the financing thereof, the Lessee intends to lease the real estate described in Exhibit A attached hereto and incorporated herein by reference (such real estate, the "Real Estate"), to the Commission pursuant to a Lease Agreement between the Authority and the Commission (the "Financing Lease") whereby the Commission will pay annual lease rentals to the Authority for the use of the Real Estate in such amounts as will be sufficient to cover the debt service on the Bonds, all in accordance with the Act; and

WHEREAS, the Lessor owns the Real Estate and desires to lease to the Lessee any and all interest it may have in the Real Estate pursuant to the terms and conditions of this Lease to facilitate the financing and construction of the Project by the Lessee; and

WHEREAS, pursuant to Indiana Code 36-1-11-8 and 36-7-14.5-18, the Lessor may, with the approval of the Commission, lease the Real Estate to the Authority pursuant to this Lease upon such terms and conditions as may be agreed upon by the Lessor and the Lessee; and

WHEREAS, all or a portion of the Project may be constructed on the real property described on Exhibit B attached hereto and incorporated herein by reference (such real estate, the "Project Real Estate"); and

WHEREAS, the Town, the Commission and the Authority may determine to substitute the Project Real Estate for all or a portion of the Real Estate under the Financing Lease and this Lease; and

WHEREAS, this Lease has been approved by the Town Council of the Town, the Board of Directors of the Authority and the Commission.

NOW THEREFORE, in consideration of the above recitals and the covenants contained in this Lease, the parties agree as follows:

1. Real Estate and Lessor Right To Terminate. Subject to the terms and conditions set forth in this Lease, Lessor hereby leases any and all rights and interests it now has or may hereafter acquire in the Real Estate to Lessee for its exclusive use during the term hereof. Lessee acknowledges and agrees that the Real Estate is accepted by Lessee, in "AS IS, WHERE IS" condition and "WITH ALL FAULTS," and with no representations or warranties of any type being made by Lessor whatsoever, other than as expressly set forth in this Lease.

2. Term. The term of this Lease shall commence on the Effective Date (also referred to herein as the "Commencement Date") and shall terminate at 11:59:59 p.m. on December 31, 2035 (the "Term") unless sooner terminated as provided herein. Notwithstanding the foregoing, in the event that the Financing Lease is terminated prior to the expiration of the initial term of this Lease (or any applicable renewal period), then this Lease will terminate. Further, notwithstanding anything herein to the contrary, the term of this Lease shall remain in effect so long as any obligations are due under the Financing Lease.

3. Rent And Expenses. Beginning on the date hereof (the "Rent Commencement Date"), Lessee shall pay Lessor annual rent ("Rent") during the Term in accordance with the provisions of this section 3 (the twelve month period starting on the Rent Commencement Date and each calendar year during the Term thereafter is a "Lease Year"). So long as the Financing Lease remains in effect, Rent shall be and remain One Dollar (\$1.00) per year.

4. Liens And Encumbrances.

(a) Except as expressly permitted in this Lease, Lessee shall not permit any liens to encumber the Real Estate or its interest in this Lease, nor shall Lessee pledge or otherwise convey to any third party any interest in any of the foregoing, except that Lessee shall be permitted to lease the Real Estate pursuant to the Financing Lease. Except for liens and encumbrances permitted in this Section 4 or otherwise caused or approved by Lessor, Lessee shall promptly pay and discharge or cause to be paid and discharged, any lien or other encumbrance on the Real Estate. Other than in connection with the Financing Lease, Lessee may not secure any other obligations with its interest in the Real Estate or this Lease without the prior consent of Lessor, which consent may be given or withheld in Lessor's sole and absolute discretion.

(b) During the term of this Lease, without the prior consent of the Lessee, Lessor shall not dispose of, or permit any liens, security interests, charges or encumbrances to be placed on the Real Estate.

(c) Notwithstanding the foregoing provisions of this Section 4 or anything contained herein, the Town and Authority may substitute all or a portion of the Real Estate hereunder with the Project Real Estate. Any substitution pursuant to the preceding sentence shall be memorialized in a written amendment to the Lease and completed in

conjunction with an identical substitution of all or a portion of the Real Estate with the Project Real Estate under the Financing Lease.

5. Limitation Of Liability; Indemnification.

(a) Lessor shall have no liability to Lessee or any third party for loss or damage to Lessee's property therein, except to the extent caused by Lessor's intentional acts, its gross negligence or its willful misconduct or that of any of its agents or employees.

(b) Lessee shall indemnify, protect, defend and hold Lessor and Lessor's affiliates, officers, directors, members, employees, advisors, bond-holders, lenders, representatives and agents harmless from and against any and all injuries, losses, claims, demands, liabilities, causes of action, suits, judgments, damages (excluding consequential damages), and expenses (including disbursements and reasonable attorney's fees incurred by Lessor) actually or allegedly arising from, related to, or in any way connected with the use or occupancy of the Real Estate or the conduct or operation of Lessee's business on the Real Estate or in any way connected to Lessee's failure to perform or observe any of the obligations on Lessee's part to be performed or observed pursuant to this Lease.

(c) Subject to the limitations set forth in Section 5(b) above, Lessor hereby indemnifies Lessee from and against any and all claims, damages, costs, expenses, including reasonable legal fees, resulting from (i) any damage to person or property caused by Lessor or anyone acting through or under Lessor (each, a "Lessor Party"); or (ii) any breach of this Lease by any Lessor Party.

6. Quiet Possession. Lessor warrants and covenants that, so long as Lessee faithfully performs all of its obligations under this Lease, Lessor will not interfere with Lessee's quiet and peaceable possession and enjoyment of the Real Estate, subject, however, to the terms and provisions of this Lease.

7. Default; Remedies; Termination Obligations.

(a) Any failure by Lessee to timely comply with its obligations under this Lease shall constitute a default hereunder.

(b) If the Lessee shall default (a) in the payment of any rentals or other sums payable to the Lessor hereunder, or in the payment of any other sum herein required to be paid for the Lessor; or (b) in the observance of any other covenant, agreement or condition hereof, and such default shall continue for ninety (90) days after written notice to correct such default; then, in any or either of such events, the Lessor may proceed to protect and enforce its rights by suit or suits in equity or at law in any court of competent jurisdiction, whether for specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy; or the Lessor, at its option, without further notice, may terminate the estate and interest of the Lessee hereunder, and it shall be lawful for the Lessor forthwith to resume possession of the Real Estate and the Lessee covenants to surrender the same forthwith upon demand.

The exercise by the Lessor of the above right to terminate this Lease shall not release the Lessee from the performance of any obligation hereof maturing prior to the Lessor's actual entry into possession. No waiver by the Lessor of any right to terminate this Lease upon any default shall operate to waive such right upon the same or other default subsequently occurring.

8. Eminent Domain. If title to or the temporary use of the Real Estate, or any part thereof, shall be taken under the exercise or the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, any net proceeds received from any award made in such eminent domain proceedings (after payment of expenses incurred in such collection) shall be paid to and held by the Trustee (as defined in the Financing Lease).

Such proceeds shall be applied in one or more of the following ways:

(a) The restoration of the Real Estate to substantially the same condition as it existed prior to the exercise of that power of eminent domain, or

(b) The acquisition, by construction or otherwise, of other improvements suitable for Lessee's operations on the Real Estate and which are in furtherance of the purposes of the Act (the improvements shall be deemed a part of the Real Estate and available for use and occupancy by the Lessee without the payment of any rent other than as herein provided, to the same extent as if such other improvements were specifically described herein and demised hereby).

Within ninety (90) days from the date of entry of a final order in any eminent domain proceedings granting condemnation, Lessee shall direct the Lessor in writing as to which of the ways specified in this Section it elects to have the net proceeds of the condemnation award applied. Any balance of the net proceeds of the award in such eminent domain proceedings not required to be applied for the purposes specified in subsections (a) or (b) above shall become the property of the Lessee and applied to the repayment of the Bonds.

The Lessee shall cooperate fully with Lessor in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Real Estate or any part thereof. In no event will the Lessee voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Real Estate or any part thereof without the written consent of Lessor, which consent shall not be unreasonably withheld.

9. Notices. All notices, demands or other writings in this Lease provided to be given or made or sent will be deemed to have been fully given or made or sent, on the day personally delivered, on the next business day if sent by overnight courier or five business days after being deposited in the United States mail, certified, with postage prepaid, and addressed as follows:

To the Lessor:

Town of Whitestown
6120 Veterans Drive
Whitestown, Indiana 46075

Attn: Town Manager

With a copy to:

Steve Unger, Esq.
Bose McKinney & Evans LLP
111 Monument Circle, Suite 2700
Indianapolis, Indiana 46204

To the Lessee:

Whitestown Redevelopment Authority
6120 Veterans Drive
Whitestown, Indiana 46075
Attn: President, Board of Directors

With a copy to:

Steve Unger, Esq.
Bose McKinney & Evans LLP
111 Monument Circle, Suite 2700
Indianapolis, Indiana 46204

The address to which any notice, demand or other writing may be given or made or sent to any party, as above provided, may be changed by written notice given by the party as above provided.

10. No Relationship Of The Parties. This Lease does not create the relationship of principal and agent or of partnership or joint venture or association between the parties or any other relationship whatsoever (except lessor and lessee), or render either party liable for any of the debts or obligations of the other party. Lessor and Lessee are independent contractors in relation to their respective obligations under this Lease.

11. No Waiver. No covenant, term or condition of this Lease will be deemed waived unless the waiver is in writing signed by the party against whom enforcement of any waiver is sought. The waiver of any provision or breach of this Lease by either party shall not operate or be construed as a waiver of any future breach of the same provision of any other provision or breach.

12. Force Majeure. If either party is delayed or hindered in or prevented from the performance of any act required under this Lease (which does not include the payment of any monetary amounts) by reason of any strike, lock out, labor trouble, inability to procure materials or energy, failure of power, restrictive governmental laws, riot, insurrection, picketing, sit in, war, acts of foreign or domestic terrorism, civil unrest, or other unavoidable reason of a like nature not attributable to the negligence or fault of the party delayed in performing or doing any act required under the terms of this Lease, then the performance of the work or action will be excused for the period of the unavoidable delay and the period for performance of any action will be extended for an equivalent period.

13. Invalid Provisions; Change In Law. If any provision of this Lease is illegal, invalid or unenforceable under any present or future law, that provision will no longer be effective, but the remaining terms and conditions of this Lease will remain in full force and effect to the extent permitted by law and as contemplated by this Lease. It is the intent and agreement of the parties that this Lease will be deemed amended by modifying the provision to the minimum extent necessary to make it legal and enforceable while preserving its intent or, if that is not possible, by substituting another provision that is legal and enforceable and achieves the same objective. If the remainder of this Lease will not be affected by the declaration or finding and is capable of substantial performance, then each provision not so affected will be enforced to the extent permitted by law.

14. Interpretation. The rule of construction to the effect that an instrument shall be construed against its draftsman shall not apply to this Lease and shall not negate or invalidate any provision of this Lease.

15. Section Captions. The captions appearing under the Section number designations of this Lease are for convenience only, and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease.

16. Binding Effect. The terms, conditions and covenants of this Lease apply to and bind the parties and their respective successors, heirs, legal representatives and permitted assigns, subject to the restrictions contained in this Lease.

17. Time Of The Essence. TIME IS OF THE ESSENCE AS TO ALL DATES AND TIME PERIODS SET FORTH HEREIN.

18. Survival. The terms and provisions of this Lease which have not been fully performed or completed upon the expiration or termination of this Lease, including without limitation, Lessee's obligations with respect to environmental matters, shall survive the expiration or termination of this Lease.

19. Counterpart Execution. This Lease may be executed simultaneously or in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

20. Governing Law. This Lease is executed and intended to be performed in the State of Indiana and the laws of the State of Indiana govern their interpretation and effect. Any litigation related to this Lease must be venued in the state or federal courts in the State of Indiana.

[Signature Page to Lease follows]

LESSOR:

TOWN OF WHITESTOWN, INDIANA

By: _____
Eric Miller, Town Council President

ATTEST:

By: _____
Matt Sumner, Clerk-Treasurer

LESSEE:

WHITESTOWN
REDEVELOPMENT AUTHORITY

By: _____
Kevin Russell, President, Board of Directors

ATTEST:

By: _____
Julie Whitman, Secretary

STATE OF INDIANA)
) SS:
COUNTY OF BOONE)

Before me, the undersigned, a Notary Public in and for this Town and State, personally appeared Eric Miller and Matt Sumner, personally known to be the Town Council President and Clerk-Treasurer of the Town of Whitestown, Indiana (the "Town"), and acknowledged the execution of the foregoing Lease Agreement for and on behalf of the Town.

WITNESS my hand and notarial seal this ____ day of _____, 2016.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

STATE OF INDIANA)
) SS:
COUNTY OF BOONE)

Before me, the undersigned, a Notary Public in and for this Town and State, personally appeared Kevin Russell and Julie Whitman, personally known to be the President and Secretary of the Board of Directors of the Whitestown Redevelopment Authority (the "Authority"), and acknowledged the execution of the foregoing Lease Agreement for and on behalf of the Authority.

WITNESS my hand and notarial seal this ____ day of _____, 2016.

(Seal)

(Written Signature)

(Printed Signature)

Notary Public

My Commission expires:

My county of residence is:

I affirm under the penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. /s/ Dennis H. Otten

This instrument was prepared by Dennis H. Otten, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700, Indianapolis, Indiana 46204.

EXHIBIT A

Legal Description of the Real Estate

EXHIBIT B

Legal Description of the Project Real Estate